

CHAPTER CCCCXXX.

AN ACT abolishing the punishment of death in certain cases.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled,* That the pains and penalties hereinafter mentioned shall be inflicted upon the several offenders, who shall, from and after the passing of this Act commit, and be legally convicted of any of the felonies hereinafter enumerated and specified, in lieu of the pains and penalties which by law, have been heretofore inflicted; that is to say, every person duly convicted of robbery, and every person present, aiding and abetting in the commission of such robbery, or who shall be accessary thereto before the fact, by counselling, hiring or procuring the same to be done and committed, or who shall be adjudged guilty of any felony or offence specified in the eighth section of "An Act providing for the punishment of the crimes of robbery and other larcenies and for the prevention thereof," passed the nineteenth day of March, in the year of our Lord one thousand eight hundred and twenty-one, on due conviction thereof before the Supreme Judicial Court, shall be punished by confinement to hard labor in the State Prison for life.

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Punishment for robbery.

SECT. 2. *Be it further enacted,* That so much of the first section of an Act passed the twenty-eighth day of February, in the year of our Lord one thousand eight hundred and twenty-one, "providing for the punishment of the crime of burglary and other breaking and entering of buildings," as prescribes the punishment of death for the crimes and offences therein specified. Also so much of the second section of the same Act as prescribes the sentence of hard labor for life, on conviction of the crimes and offences specified in and by the said second section of said Act, be, and the same hereby is repealed: and in lieu of the punishment of death, as provided in and by the first section of said Act, every such offender, and any person present aiding, assisting, or consenting in such burglary, or accessary thereto before the fact, by counselling, hiring or procuring such burglary to be committed, who shall be duly convicted before the Supreme Judicial Court, shall be punished, by confinement to hard labor in the State Prison for life; and in lieu of the punishment prescribed

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Punishment for burglary.

in and by the second section of the same Act, the court before whom the conviction may be, shall sentence such offender to confinement to hard labor in the State Prison for a term of years, or for life, according to the nature and aggravation of the offence.

SECT. 3. *Be it further enacted,* That from and after the passing of this Act, the first section of "An Act providing for the punishment of incendiaries, and the perpetrators of other malicious mischief," passed February twenty-fourth, one thousand eight hundred and twenty-one, be, and the said first section is hereby repealed, as to the several crimes and offences which may be committed from and after the passing of this Act.

1st sec. of act chap. 4, repealed.

SECT. 4. *Be it further enacted,* That if any person shall wilfully and maliciously set fire to the dwelling house of another, or to any out building, adjoining to such dwelling house, or to any other building with the intent that such dwelling house shall be burnt, and by the kindling of such fire, or by the burning of such other building, such dwelling house shall be burnt in the night time, every such offender, and any person present, aiding or consenting in the commission of such offence, or accessory thereto before the fact, by counselling, hiring or procuring the same to be done, who shall be duly convicted before the Supreme Judicial Court of either of the felonies and offences aforesaid, shall suffer the punishment of death.

Punishment for incendiaries in the night time.

Death.

SECT. 5. *Be it further enacted,* That if any man shall ravish and carnally know any woman, by force and against her will, or shall unlawfully and carnally know and abuse any woman-child under the age of ten years, every such offender, and any person present, aiding and consenting to such rape, or accessory thereto before the fact, by counselling, procuring or commanding such rape to be committed, who shall be duly convicted, in the Supreme Judicial Court, of either of the felo-

Punishment for rape.

nies or offences aforesaid, shall be punished by confinement to hard labor in the State Prison for life.

Punishment of gaoler, who suffers a prisoner, charged with a capital felony to escape.

SECT. 6. *Be it further enacted*, That every gaoler or prison keeper, that shall voluntarily suffer any prisoner, committed unto him, to escape, charged with a capital felony, on due conviction thereof, before the Supreme Judicial Court, shall be punished, by fine not exceeding one thousand dollars, and by confinement to hard labor in the State Prison for a term, not less than five years, and not exceeding fifteen years, as the said Court may sentence and order: *Provided however*, That when such voluntary escape shall be suffered after conviction of a capital crime, such gaoler or prison keeper, shall, on due conviction thereof, before said Court, in addition to the fine aforesaid, be sentenced to hard labor in the State Prison for life.

Former acts inconsistent with this act repealed.

Proviso.

SECT. 7. *Be it further enacted*, That from and after the passing of this Act, all Acts and parts of Acts heretofore passed inconsistent with the provisions of this Act, shall be, and they hereby are repealed: *Provided*, That the same Acts and parts of Acts, shall be and remain in force for the cognizance, trial and punishment of all such crimes and offences as therein are mentioned, which have been committed before the passing of this Act, and all proceedings thereof arising, this repeal notwithstanding.

[Approved by the Governor, Feb. 28, 1829.]

